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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/089,085 | 04/10/2002 | Takanori Nishimura | 220709US6PCT | 2937 |
| 22850 | 7590 | 05/28/2009 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. | | | MONTOYA, OSCHTA I | |
| 1940 DUKE STREET | | | ART UNIT | PAPER NUMBER |
| ALEXANDRIA, VA 22314 | | | 2421 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | |
|------------------------------|--------------------------------------|---|
| Office Action Summary | Application No. 10/089,085 | Applicant(s) NISHIMURA ET AL. |
| | Examiner Oschta Montoya | Art Unit 2421 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

Status

- 1) Responsive to communication(s) filed on 23 March 2009.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 and 9-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-146/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-6 and 9-13 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Garrity discloses "transmitting a menu from the reservation control apparatus to the distributor terminal apparatus via the open network, to upload content from the distributor terminal apparatus to the distribution server for distribution of the content from the distribution server" (figure 5-6, Col. 8, line 12 to Col. 10, line 28); and Rodriguez discloses a menu configured to display available service times to distribute content using a distribution server and a service fee, availability, and cost corresponding to each of the available service times (Col. 18, lines 23-55).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrity et al., US 6,230,205 in view of Rodriguez, US 7,340,759 in view of Thomas et al., US 7,305,696.

Regarding claim 1, Garrity discloses a content distribution method for making a reservation via an open network (content providers (102-106) to network 138 (figure 1) to schedule input gateway (204) to SMS and schedule data (210) to file output gateway, session information gateway, receiver entitlement gateway (212-216) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users) to a reservation control apparatus for the use of a distribution server (Col. 4, lines 33-59, Col. 7, lines 1-8) that receives content sent from a distributor terminal apparatus (102, 104, and 106) via a dedicated network (content providers (102-106) to network 138 (figure 1) to stream I/O gateway (206) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users) and carries out stream distribution of said content to a client terminal apparatus via the open network (Col. 3, lines 32-57, fig. 1, Col. 4, lines 33-59), sending said content from said distributor terminal apparatus (102, 104, 106) to said distribution server (136) based on said reservation and thereby carrying out content distribution, said content distribution method comprising:

sending, by the distributor terminal apparatus, reservation request information including a desired service time to distribute content using said distribution server based on a selection of the desired service time from the menu (136) (Col. 8, lines 30-48) and restriction information on restrictions of the client terminal apparatus from said

distributor terminal apparatus to said reservation control apparatus via open the network (Col. 4, lines 33-59, Col. 9, lines 20-44);

transmitting, when the reservation for the use of said distribution server during said desired service time included in said reservation request information is accepted, the content from said distributor terminal apparatus to said distribution server via the dedicated network to carry out a content distribution based on said accepted reservation (Col. 4, lines 33-59, Col. 7, lines 1-9, lines 45-62);

judging, when said client terminal apparatus requests said distribution server to distribute content via the open network, whether the distribution request of said client terminal apparatus should be accepted or not based on said restriction information (Col. 13, lines 31-60); and

carrying out a stream distribution, when the distribution request of said client terminal apparatus is accepted, of the content sent from said distributor terminal apparatus from said distribution server to said client terminal apparatus via the open network (Col. 4, lines 33-59, Col. 12, lines 42-60, Col. 13, lines 32-59).

Although, Garrity teaches transmitting a menu from the reservation control apparatus to the distributor terminal apparatus via the open network, to upload content from the distributor terminal apparatus to the distribution server for distribution of the content from the distribution server, and also that the user can input the restriction requirements such as time, bandwidth, billing criteria, etc (figure 5-6, Col. 8, line 12 to Col. 10, line 28). Garrity fails to specifically teach that the menu is configured to display

available service times and a service fee, availability, bandwidth and cost corresponding to each of the available service times.

In an analogous art, Rodriguez teaches a menu configured to display available service times to distribute content using a distribution server and a service fee, availability, and cost corresponding to each of the available service times (Col. 18, lines 23-55).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Garrity's method to include a menu displaying available service times, service fees, and availability, as taught by Rodriguez. The motivation would have been to further increase the user friendliness of the method by providing an easy to navigate menu.

Garrity and Rodriguez fail to teach a menu configured to display available bandwidth.

In an analogous art, Thomas discloses a menu configured to display available bandwidth (figure 9, 14, and 23, col. 2, line 30 to col. 3, line 57, col. 10, line 33 to col. 11, line 3, col. 18, lines 33-60).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Garrity and Rodriguez's method to include a menu displaying available bandwidth, as taught by Thomas. The motivation would have been to have a more informative menu in order to give the user a complete interface.

Claim 9-13 are rejected on the same grounds as claim 1.

Regarding claim 2, Garrity and Rodriguez disclose the content distribution method according to claim 1. Garrity further teaches judging, when the reservation for the use of said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the open network (Col. 4, lines 33-67).

Regarding claim 3, Garrity and Rodriguez disclose the content distribution method according to claim 1. Garrity further teaches when said restriction information includes information that a distribution request is accepted only for a client terminal apparatus authenticated through authentication processing using a password, said judging judges whether the distribution request should be accepted based on the password sent from said client terminal apparatus (Col. 10, lines 28-57).

Regarding claim 4, Garrity and Rodriguez disclose the content distribution method according to claim 1. Garrity further teaches transmitting, when said restriction information includes information indicating the contact address of the client user of the client terminal apparatus for which a content distribution is accepted, authentication

information to said contact address of the client user via the open network (Col. 4, lines 33-59, Col. 9, lines 25-31), and judging whether the authentication information sent from said client terminal apparatus matches the sent authentication information and accepting the distribution request only when the two authentication information pieces match (fig. 6, Col.8, lines 53-64).

Regarding claim 5, Garrity discloses a reservation control apparatus, comprising: means for controlling reservations for live distributions of content using a distribution server that carries out stream distributions of said content, which is received via a dedicated network (content providers (102-106) to network 138 (figure 1) to stream I/O gateway (206) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users), to a client terminal apparatus via an open network (content providers (102-106) to network 138 (figure 1) to schedule input gateway (204) to SMS and schedule data (210) to file output gateway, session information gateway, receiver entitlement gateway (212-216) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users), receiving means for receiving reservation request information, from a distributor terminal apparatus, including a desired service time for a content distribution using said distribution server based on a selection of the desired service time from the menu (Col. 4, lines 33-59, Col. 8, lines 30-48) and restriction information about restrictions on said client terminal apparatus sent from a distributor terminal apparatus requesting a live distribution of content via the open network (Col. 4, lines 33-59, Col. 9, lines 20-64);

browsing judging means for judging, when the reservation for a content distribution using said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and storing means for storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the first network (Col. 4, lines 58-67).

Although, Garrity teaches means for transmitting a menu from the reservation control apparatus to the distributor terminal apparatus via the open network, to upload content from the distributor terminal apparatus to the distribution server for distribution of the content from the distribution server, and also that the user can input the restriction requirements such as time, bandwidth, billing criteria, etc (figure 5-6, Col. 8, line 12 to Col. 10, line 28). Garrity fails to specifically teach that the menu is configured to display available service times and a service fee, availability, bandwidth and cost corresponding to each of the available service times.

In an analogous art, Rodriguez teaches a menu configured to display available service times to distribute content using a distribution server and a service fee, availability, and cost corresponding to each of the available service times (Col. 18, lines 23-55).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Garrity's apparatus to include a menu displaying available service times, service fees, and availability, as taught by Rodriguez. The motivation would have been to further increase the user friendliness of the method by providing an easy to navigate menu.

Garrity and Rodriguez fail to teach a menu configured to display available bandwidth.

In an analogous art, Thomas discloses a menu configured to display available bandwidth (figure 9, 14, and 23, col. 2, line 30 to col. 3, line 57, col. 10, line 33 to col. 11, line 3, col. 18, lines 33-60).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Garrity and Rodriguez's apparatus to include a menu displaying available bandwidth, as taught by Thomas. The motivation would have been to have a more informative menu in order to give the user a complete interface.

Regarding claim 6, Garrity discloses a computer-readable medium storing a program to be executed by a reservation control apparatus, said program comprising: control processing that controls reservations for live distributions of content using a distribution server that carries out a stream distribution of said content, which is received via a dedicated network (content providers (102-106) to network 138 (figure 1) to stream I/O gateway (206) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users), to a client terminal apparatus via an open network (content providers (102-106) to network 138 (figure 1) to schedule input

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gateway (204) to SMS and schedule data (210) to file output gateway, session information gateway, receiver entitlement gateway (212-216) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users), reception processing that receives reservation request information including a desired service time for a content distribution based on a selection of the desired service time from the menu (Col. 8, lines 30-48) and restriction information about restrictions on said client terminal apparatus sent from a distributor terminal apparatus requesting a live distribution of content using said distribution server via the open network (Col. 4, lines 33-59, Col. 9, lines 20-64);

browsing judgment processing that judges, when the reservation for a content distribution using said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and storing processing that stores, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the open network (Col. 4, lines 33-67).

Although, Garrity teaches transmitting a menu from the reservation control apparatus to the distributor terminal apparatus via the open network, to upload content from the distributor terminal apparatus to the distribution server for distribution of the content from the distribution server, and also that the user can input the restriction

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requirements such as time, bandwidth, billing criteria, etc (figure 5-6, Col. 8, line 12 to Col. 10, line 28). Garrity fails to specifically teach that the menu is configured to display available service times and a service fee, availability, bandwidth and cost corresponding to each of the available service times.

In an analogous art, Rodriguez teaches a menu configured to display available service times to distribute content using a distribution server and a service fee, availability, and cost corresponding to each of the available service times (Col. 18, lines 23-55).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Garrity's medium to include a menu displaying available service times, service fees, and availability, as taught by Rodriguez. The motivation would have been to further increase the user friendliness of the method by providing an easy to navigate menu.

Garrity and Rodriguez fail to teach a menu configured to display available bandwidth.

In an analogous art, Thomas discloses a menu configured to display available bandwidth (figure 9, 14, and 23, col. 2, line 30 to col. 3, line 57, col. 10, line 33 to col. 11, line 3, col. 18, lines 33-60).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Garrity and Rodriguez's medium to include a menu displaying available bandwidth, as taught by Thomas. The motivation would have been to have a more informative menu in order to give the user a complete interface.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oschta Montoya whose telephone number is (571)270-1192. The examiner can normally be reached on Monday/Friday 8:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OM

/Hunter B. Lonsberry/
Primary Examiner, Art Unit 2421